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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,633	01/28/2002	Armin Meyer	22093	3440

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EXAMINER	
HUYNH, LOUIS K	

ART UNIT	PAPER NUMBER
3721	

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/058,633	MEYER ET AL.	
	Examiner	Art Unit	
	Louis K. Huynh	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The amendment to Claims 11 and 15 has overcome the indefiniteness under 35 U.S.C. 112, second paragraph. The rejection of Claims 11-16 under 35 U.S.C. 112, second paragraph, is hereby withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art) in view of Buchman (US 6,293,896).

With respect to claims 1, 2 and 8-11, AAPA discloses in the specification (page 1, line 16 – page 2, line 16) a method and apparatus for forming bags including: providing a welding station having separation-welding element along a transport path; advancing a double-layer synthetic plastic film web in a stepwise manner on a first suction belt conveyor through the welding station; controlling a step length of each advance of the suction belt such that the step length is equal to the product of the number of the separation-welding element (one is disclosed) and the width of the bag.; picking up the bag separated by the separation-welding element from the first suction belt conveyor with a second suction belt conveyor disposed above the first suction belt conveyor; and advancing the second belt conveyor synchronously with the stepping frequency of the first suction belt conveyor to convey the bags to a stacking station. The AAPA

method and apparatus meets all of applicant's claimed subject matter but lacks the specific teaching of the welding station having at least two separation-welding elements.

However, Buchman discloses a method and apparatus for manufacturing bags wherein side seams (13, 15) of the bag can be formed with a single seal bar (260) or alternatively with multiple seals bars (260) and each seam area is contacted by one of the seal bars (col. 5, lines 41-53), and wherein rollers can be used as desired to feed and stabilize the film.

Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the AAPA method and apparatus by having provided at least two separating-welding elements, as taught by Buchman, as an alternative for making bags so that the processing time could be reduced because of the multiple separating-welding elements being utilized.

Regarding the limitation of the step length being equal to the product of the number of the separating-welding elements and the width of the bag, it would have been obvious to the skilled person in the art to advance the film web with a step length that is equal to the product of the number of the separating-welding elements and the width of the bag because each side seam of the bag is only needed to be sealed once by a single separating-welding element.

4. Claims 3-7 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art) in view of Buchman (US 6,293,896) as applied to claims 1 and 11 above; and further in view of Simonetti et al. (US 6,416,453).

With respect to claims 3-6 and 12-14, the modified AAPA method and apparatus meet all of applicant's claimed subject matter but lacks the specific teaching of collecting device having

pins for receiving the bags and advancing the bags and a knock-off device for padding the bags in stack on the pins to form a stack of bags.

Simonetti discloses a method and apparatus for making bags including a knock-off device (22) for stacking bags (20) onto a collecting device (28) having an endless conveyor belt (30) and pins (34) mounted on the endless belt for receiving the bags (20) and intermittently advancing the stacks of bags to a further packaging station.

Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have further modified the AAPA method and apparatus by having provided a knock-off device for stacking the bags and a collecting device having pins mounted on an endless conveyor belt for receiving the bags in stack and advancing the stacks of bags, as taught by Simonetti, in order to facilitate packaging of the bags.

With respect to claim 7, the modified AAPA method meets all of applicant's claimed subject matter but lacks the specific teaching of a step of transferring the pads of bags by a robot from the collecting device to packing cartons, it would have been obvious to a skilled person in the art to have transferred the stacks of bags produced by the modified AAPA method from the collecting device to packing cartons using various known means such as a transfer arm which is considered to be a robot since the transfer arm is a mechanical device and is designed to perform a routine function automatically.

With respect to claim 15, the knock-off device in the modified AAPA apparatus would have included vertically movable pressing pads (arms 24). Since each of the vertical pressing pad comprises a pair of arms (24) that must move into the second suction belt conveyor in order to remove a bag from the second suction belt conveyor; therefore, it would have been obvious to

an ordinary skilled person in the art, at the time the invention was made, to have modified the second suction belt conveyor by providing a plurality of parallel belts such that the knock-oof device is disposed between the plurality of parallel belts of the second suction belt for transferring the bag from the second suction belt conveyor to the collecting device.

With respect to claim 16, the modified AAPA apparatus would have included in the first suction belt conveyor a single belt extending at least a full width of the film web.

Response to Arguments

5. Applicant's arguments filed December 01, 2003 have been fully considered but they are not persuasive.

Applicant contends that suggestion for modification or combination could not be found in either the Buchman reference (US 6,293,896) or AAPA (Applicant Admitted Prior Art), and that the seal bars (260) in the Buchman reference are not a separation-welding elements because the seal bars (260) do not separate individual bags from the web, and thus it would not have been obvious to a skill person in the art, at the time the present invention was made, to combine the teaching of AAPA with the teaching of the Buchman reference. Applicant further contends that the Simonetti reference (US 6,416,453) could not be combined with the primary references because the knock-off device disclosed in the Simonetti reference is not oriented with respect to the conveyor as claimed.

This is not found persuasive because:

On the one hand, AAPA teaches a known method and known apparatus for producing a single bag that uses a single separation-welding element for welding and separating a single bag from the web.

On the other hand, the Buchman reference at col. 5, lines 41-53, states: "Heat seal bars 260 provide vertical seals on the film and zipper closure combination. These vertical seals will eventually result in side seam 13, 15, of the package 10 in FIG. 1. In one embodiment, a single heated seal bar 260 is used. **In a second embodiment, a plurality of heated seal bars 260 is used**. Typically, each seal bar 260 has a first bar and a second bar (not illustrated) on opposite sides of the film ... different temperature. The process may be designed so that each seam area is contacted by multiple seal bars, **or by only one bar**." It is clear that the Buchman reference has taught the use of multiple seal bars over a single seal bar for a very obvious reason of producing multiple packages at the least processing time.

Having known the method and apparatus of AAPA and the teaching of the Buchman reference as illustrated above, it would have been obvious to a skill person in the art, at the time the invention was made, to have modified the AAPA method and apparatus by replacing the single separation-welding element with a plurality of separation-welding elements, as taught by Buchman, in order to produce multiple bags at the least processing time.

Therefore, in response to applicant's argument that the secondary reference (Buchman and/or Simonetti) could not be combine with the primary reference, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

With respect to applicant's argument that the knock-off device disclosed in the Simonetti reference is not oriented with respect to the conveyor as claimed, a skilled person in the art would have known how to apply the teaching of Simonetti in modifying and/or combining the method and apparatus taught by the combined references because the knock-off device for pressing bags onto pins of a stacking device, such as one disclosed in the Simonetti reference, is well known in the art of manufacturing bags.

Thus, the *prima facie* case of obviousness has been reasonably set forth.

Conclusion

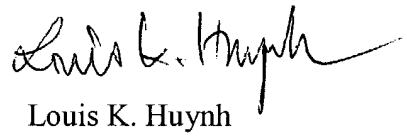
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh
Patent Examiner
Art Unit 3721

LH
May 06, 2004